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COUNTY OF LOS ANGELES and DEPUTY TRAVIS KELLY
(Defendants is exempt from filing fees pursuant to Government Code § 6103)

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

JOSHUA ASSIFF,

Plaintiffs,

v.

COUNTY OF LOS ANGELES;
SHERIFF DEPUTY BADGE
NUMBER 404532; And DOES 1
through 10,

Defendants.

Case No.: 2:22-cv-05367 RGK(MAAx)

**DECLARATION OF MOLSHREE
GUPTA, ESQ. IN SUPPORT OF
PLAINTIFF'S APPLICATION TO FILE
DOCUMENTS UNDER SEAL (L.R. 79-
5.2.2(B)(1))**

*(Filed Concurrently with Defendants' Reply
ISO Motion for Partial Summary Judgment)*

Date: June 26, 2023

Time: 9:00 a.m.

Crtrm: 850

Action Filed: August 3, 2022

Pretrial Conference: July 10, 2023

Trial Date: July 25, 2023

Assigned to:

Hon. R. Gary Klausner, District Judge
Courtroom 850

DECLARATION OF MOLSHREE GUPTA, ESQ.

I, MOLSHREE GUPTA, ESQ., declare and state as follows:

1. I am an attorney at law duly licensed to practice as such before all the courts of the State of California and am a partner in the law offices of Kjar, McKenna & Stockalper, LLP, attorneys of record for moving parties, Defendants COUNTY OF LOS ANGELES and SERGEANT TRAVIS KELLY (collectively, “Defendants”) in the action entitled *Assiff v. County of Los Angeles, et al*, Case Number 2:22-cv-05367 RGK(MAAx).

2. I have personal knowledge of the matters set forth herein, and if called to testify, I could and would competently testify to the facts set forth in this Declaration based upon my personal knowledge.

3. This declaration is made in connection with Plaintiff’s Application for leave to file documents under seal, filed on June 5, 2023 (Dckt. # 53) and in response to this Court’s Order regarding the same, filed on June 12, 2023 (Dckt. #69).

4. On June 5, 2023, Plaintiff filed his Opposition to Defendants’ Motion for Partial Summary Judgment, in conjunction with the subject Application, to attempt to provide as evidence certain portions of Defendant Travis Kelly’s personnel file or contain references to Defendant Travis Kelly’s personnel file.

1. On June 9, 2023, Defendants filed their Motion in *Limine* #1 to exclude at trial any evidence, references to evidence, witness testimony, contentions, or cross-examination relating to the foregoing.

2. On June 12, 2023, Defendants filed their Reply in support of their Motion for Partial Summary Judgment, and objections to Plaintiff’s evidence – including the use of certain portions of Defendant Travis Kelly’s personnel file or contain references to Defendant Travis Kelly’s personnel file.

1 3. Defendant Travis Kelly's personnel records have been *confidentially*
2 produced in this litigation subject to a Stipulated Protective Order.

3 4. Based on information and belief, all parts of the designated material are
4 sealable for the following reasons:

5 a. Personnel records of government personnel are privileged official
6 information. See *Miller v. Pancucci* (C.D. Cal. 1992) 141 F.R.D. 292, 301;

7 b. The subject materials implicate hearsay statements from third parties, and
8 are therefore unreliable.

9 c. The subject materials implicate the private information of third parties, who
10 are not party to this action and who have their own right to privacy.

11 d. The subject materials implicate the government investigatory privilege,
12 which preserves the confidentiality of investigative files and applies to
13 informal investigatory material and preliminary determinations. See *Valley*
14 *Surgical Ctr. v. Cty. of Los Angeles* (C.D. Cal. 2017) 2017 WL 10574239,
15 at *4 (citing *N.L.R.B. v. Silver Spur Casino* (9th Cir. 1980) 623 F.2d 571,
16 580); see also *Scalia v. Int'l Longshore & Warehouse Union* (N.D. Cal.
17 2020) 336 F.R.D. 603, 617.

18 e. The publication of hearsay statements of third parties which bear no indicia
19 of reliability will be harmful to Defendants.

20 f. The publication of Defendant Kelly's personnel records will be harmful to
21 his interest in maintaining the privacy of such records.

22 5. On June 12, 2023, Defendants received and reviewed this Court's Order
23 (Dckt. #69) regarding Plaintiff's Application for leave to file documents under seal.
24 Specifically, Defendants were alerted to the Local Rule 79-5.2.2., which requires a
25 supporting Declaration from Defendants' counsel establishing that the designated
26 materials are sealable.
27
28

1 6. Defendants, by and through their counsel of record, submit this Declaration
2 in support of Plaintiff's June 5, 2023, Application for leave to file documents under seal.

3 7. Defendants further request relief from the Court's Order (Dckt. #69)
4 denying Plaintiff's June 5, 2023, Application for leave to file documents under seal for
5 the following reasons:

6 a. Based on the Court's Order (Dckt. #69), it appears that the Court ordered
7 Plaintiff to file unredacted documents no sooner than June 16, 2023, and no
8 later than June 22, 2023.

9 b. Publication of unredacted documents which are believed to be subject to
10 sealing would harm not only the privacy interest of Defendant Kelly, but
11 also the privacy interests of third-party Sheriff's Department personnel and
12 civilians alike.

13 I declare under penalty of perjury under the laws of the State of California that the
14 foregoing is true and correct.

15 Executed on June 13, 2023, at El Segundo, California.

16 

17 _____
18 MOLSHREE GUPTA

CERTIFICATE OF SERVICE

I am employed in the County of Los Angeles, State of California; I am over the age of eighteen years and not a party to the within action; my business address is 841 Apollo Street, Suite 100, El Segundo, California 90245.

On June 14, 2023, I served the foregoing document described as **DECLARATION OF MOLSHREE GUPTA, ESQ. IN SUPPORT OF PLAINTIFF'S APPLICATION TO FILE DOCUMENTS UNDER SEAL (L.R. 79-5.2.2(B)(1))** on all interested parties in this action by placing a true copy thereof in a sealed envelope addressed as follows:

SEE ATTACHED SERVICE LIST

By Mail I caused such envelope(s) to be deposited in the mail at El Segundo, California. The envelope was mailed with postage thereon fully prepaid and addressed to the parties listed on the Service List. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. It is deposited with U.S. postal service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than 1 day after date of deposit for mailing in affidavit.

XX **By Email** Based upon a court order or an agreement of the parties to accept electronic service, I caused the documents to be sent to the persons at the electronic service addresses listed in the Service List. My email address is mnixon@kmslegal.com.

By Personal Service I caused such document to be Personally Served on the parties listed in the Service List.

XX **State** I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on June 14, 2023, at El Segundo, California.



Maria Nixon

SERVICE LIST

Assiff, Joshua vs. County of Los Angeles, et al.

Central District- Case No.: 2:22-cv-05367 RGK(MAAX)

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